No. 353.

Motion to advance.

Office Supreme Court U. S.
FILED
SEP 21 1898
J. H. McKENNEY,
Clerk.

Filed Sept. 21, 1898.

Supreme Court of the United States.

OCTOBER TERM, 1898.

No. 353.

THE STATE OF OHIO, APPELLANT,

vs.

J. B. THOMAS.

MOTION TO ADVANCE.

The appellee, J. B. Thomas, moves the court to advance this cause and assign the same an early day for hearing on the following grounds:

Said Thomas is governor of the Central Branch of the National Home for Disabled Volunteer Soldiers at Dayton, Ohio, in charge of the management of the same under the acts of Congress and the direction of the board of managers. He was arrested by the State officers for alleged violation of the statute of Ohio concerning the use of oleomargarine. Such violation consisted in the purchase and use of oleomargarine at said home without compliance with requirements of the State law.

The governor duly challenged the authority of the State to hold him accountable for his official acts done for and

under the authority of the United States. His plea being overruled and sentence given, he applied to the Federal court for a writ of *habeas corpus*, which was granted. After full hearing he was discharged (see opinion of Judge Taft, 82 Fed., p. 304). This judgment was affirmed by the circuit court of appeals. The State officers have appealed here.

The case, therefore, is one of a purely public nature, the early decision of which is necessary to relieve the officers of both State and National Government from the embarrassment caused by this controversy.

We are authorized to say that counsel for the State officers unite in this motion.

Respectfully submitted.

JUDSON HARMON,
D. W. BOWMAN,
Counsel for Appellee.

We hereby accept service of notice of the above motion and unite in the same.

CHARLES H. BOSLER,
Counsel for Appellant.

DAYTON, OHIO, *September* 19, 1898.

[Endorsed:] Case No. 16,938. Supreme Court U. S., October term, 1898. Term No., 353. The State of Ohio, appellant, *vs.* J. B. Thomas. Motion to advance and acceptance of service of notice. Office Supreme Court U. S. Filed Sep. 21, 1898. James H. McKenney, clerk.